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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 MASTER DOCKET 18-MD-2865 (LAK)
4 CASE NO. 18-CV-09797

5 IN RE:

6 CUSTOMS AND TAX ADMINISTRATION OF
7 THE KINGDOM OF DENMARK
(SKATTEFORVALTNINGEN) TAX REFUND
8 SCHEME LITIGATION

9
10
11 C O N F I D E N T I A L
12
13

14 REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL

15 EXAMINATION OF

16 SHAHAB HASHEMI

17 VOLUME II

18 DATE: October 8, 2021
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23
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25 REPORTED BY: MICHAEL FRIEDMAN, CCR

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1 PROCEEDINGS

2

3 SHAHAB HASHEMI,,

4 called as a witness, having been first
5 duly sworn according to law, testifies as follows:

6 * * * * *

7 CONTINUED EXAMINATION BY MR. OXFORD:

8 Q Good afternoon and good morning,
9 Mr. Hashemi.

10 Could you please turn back to
11 Binder 1, Tab 28, which is the Notice of
12 Deposition?

13 A Okay.

14 Q You can turn to Topic 23, please.

15 A Okay.

16 Q Topic 23 concerns Annex E.

17 Correct?

18 A So I missed the beginning of your
19 sentence.

20 Q Topic 23 concerns Annex E.

21 Correct?

22 A I can see that, yes.

23 Q Great.

24 Tell me what you did to prepare
25 yourself on this topic.

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1 attorneys conveyed factual information,
2 you can answer. But beyond that, I
3 would instruct you not to answer.

4 If you recall at all.

5 A Mr. Oxford, at this moment in time,
6 I don't recall exactly the answers to the
7 questions.

8 Q Okay. Do you recall, sitting here
9 today, what, if any, factual information
10 ED&F Man's lawyers conveyed to you on
11 Topic 23?

12 MR. BINDER: Objection, asked and
13 answered.

14 A I can't recall right now.

15 Q Okay. Is it correct that
16 ED&F Man's position is that Annex E
17 contains — withdrawn.

18 Is it correct that ED&F Man's
19 position is that the Annex E tax vouchers
20 contain certain inaccuracies?

21 A The Annex E tax vouchers contain
22 inaccuracies.

23 Q Can you describe those inaccuracies
24 for me, please?

25 A Are you able to be specific,

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1 Mr. Oxford?

2 Q It's just a general question.

3 ED&F Man's position is that Annex E
4 references tax vouchers that are inaccurate.

5 I'm asking for your understanding,
6 as a corporate representative on a notice
7 topic here, whether you have any
8 understanding of what those inaccuracies are?

9 A The inaccuracies are that the tax
10 vouchers in Annex E were incorrectly
11 produced.

12 Q Can you explain what you mean,
13 "incorrectly produced?"

14 A What I mean is that they should not
15 have been produced.

16 Q Why should they not have been
17 produced?

18 A Because they are inaccurate.

19 Q In what sense are they inaccurate?

20 A Could you repeat the question,
21 please?

22 Q In what sense are they inaccurate?

23 A Because -- they were inaccurate
24 because the pension plans weren't due a
25 dividend from the company.

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1 Q Why were the pension plans not due
2 a dividend from the company?

3 A Because the shares which they
4 acquired were not entitled or not due a
5 dividend.

6 Q From whom did the pension plans
7 acquire the shares?

8 A The pension plans instructed the
9 finance desk to source the shares and the
10 ultimate counterparty in Annex E was
11 MPT Dubai.

12 Q And why were the shares that the
13 plans acquired not entitled or due a
14 dividend?

15 A Sorry, Mr. Oxford. Could you say
16 that again?

17 Q Yeah. Why were the shares that the
18 plans acquired not entitled or due a
19 dividend?

20 A Because on the trade date,
21 MPT Dubai did not have a contractual right to
22 the shares in which it sold.

23 Q Did MPT Dubai ever acquire the
24 contractual right to the Annex E shares it
25 sold to the plans?

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1 A Sorry. Could you ask the question
2 again?

3 Q Did MPT Dubai ever acquire the
4 contractual right to the Annex E shares it
5 sold to the plans?

6 A I'm not sure I understand the
7 complete question.

8 So would you mind saying it again?

9 Sorry.

10 Q Sure. Third time.

11 Did MPT Dubai ever acquire the
12 contractual right to the Annex E shares it
13 sold to the plan?

14 A The trades settled and so the
15 shares were delivered. But the shares that
16 were delivered, MPT did not have the right on
17 the trade date.

18 Q From whom did MPT Dubai -- if
19 anyone, from whom did they acquire the shares
20 to deliver to the pension plans?

21 MR. BINDER: Objection.

22 A It would have been through an IDB.

23 Q Was it through ED&F's IDB or an
24 external IDB?

25 MR. BINDER: Objection, compound.

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1 A I don't recall at this moment in
2 time.

3 Q We can agree that if the shares
4 were acquired through ED&F's IDB, then ED&F
5 would know from which counterparty the shares
6 were acquired?

7 MR. BINDER: Objection, vague,
8 ambiguous.

9 A I'm not sure, Mr. Oxford. I don't
10 know.

11 Q When did ED&F discover that the
12 vouchers were inaccurate?

13 A I think it was as part of the work
14 that the attorneys were doing.

15 Q Okay. My question was a timing
16 question, please. I ask you to listen to my
17 question.

18 When did ED&F discover that the
19 vouchers were inaccurate?

20 A Are you looking for a date?

21 Q Yes. Hence the question, "when."

22 MR. BINDER: Well, Mr. Oxford, he
23 did give you an answer to the "when."
24 It just wasn't in the form of a date.

25 A I don't know an exact date.